

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARGARET E. FINAN,)
Plaintiff,)
v.) No. 4:21-CV-361 RLW
ACCESS CARE GENERAL, LLC, et al.,)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on several motions by Plaintiff Margaret Finan and her husband Thomas Finan. For the reasons below, the Court will grant Mr. Finan’s “Motion to proceed as Mrs. Margaret Elizabeth’s Next Friend.” (ECF No. 8). The Court will hold Plaintiff’s motion for recusal in abeyance (ECF Nos. 18 and 19)¹ and deny all other motions.

Background

Due to Mr. Finan's continued allegations of impropriety against this Court, it is necessary yet again to review the procedural history of this matter.

On March 1, 2022, the Court issued an Order that, among other things, directed Mr. Finan to complete and file on his own behalf an “Application to Proceed in District Court Without Prepaying Fees or Costs.” (ECF No. 5 at 12). The Court explained that “courts ordinarily consider the income and assets of the applicant and his or her close family members to be relevant to the determination of the applicant’s indigence under 28 U.S.C. § 1915.” *Id.* at 2 (citation omitted). The Order also provided the option for Plaintiff, or her legal guardian, to pay the \$402 filing fee. *Id.* at

¹ Plaintiff has filed two copies of her “Respectful Motion to Judge Ronnie L. White to Cooperate In Submitting This Motion Directed to a US US [sic] District Court-Judicial Conduct/Oversight Group” and her “Respectful Motion to Judge Ronnie L. White to voluntarily recuse himself from the case.” (ECF Nos. 18 and 19).

2. The Order cautioned that “if plaintiff fails to comply timely and fully with this Order, the Court will dismiss this action without prejudice.” *Id.* at 12.

Mr. Finan did not complete the appropriate form that the Court sent to him with its March 1, 2022 Order. Instead, he filed a self-prepared “Application to Proceed in District Court Without Prepaying Fees or Costs Serving as Next Friend.” (ECF No. 9). After careful review of Mr. Finan’s “Application,” the Court determined that Mr. Finan failed to comply with the Court’s Order because he did not disclose his income, savings, cash, or other assets as required by the form. (ECF No. 11). As a result, on June 21, 2022, the Court ordered Mr. Finan to: (1) show cause in writing why the Court should not deny Mrs. Finan’s IFP application considering Mr. Finan’s failure to comply with the Court’s previous order; (2) submit a fully completed and accurate Application to Proceed in District Court Without Prepaying Fees or Costs; or (3) pay the \$402 filing fee. (ECF No. 11). *Id.* Mrs. Finan paid the filing fee 10 days later.²

On August 5, 2022, the Court denied several pending motions but held in abeyance Mr. Finan’s Motion to Proceed as Next Friend. (ECF No. 14). The Court determined it did not have sufficient information to rule on the motion and ordered Mr. Finan to supplement the motion with additional documentation or file a joint motion with co-guardian Frank Keefe no later than August 19, 2022. *Id.* The Court explained that “[f]ailure to comply with the terms of this Memorandum and Order will result in the denial of Mr. Finan’s Motion to Proceed as Next Friend.” *Id.* Mr. Finan again failed to comply with the Court’s Order and requested an extension

²Mr. Finan insists in several filings that the Court gave Plaintiff no choice but to pay the filing fee. (ECF No. 20). In fact, Mr. Finan falsely claims that the Court “order[ed] Mr. Finan to pay Mrs. Finan’s fee[.]” *Id.* Mr. Finan’s contention is without merit. As explained here, the Court gave the Finans three options in its June 21, 2022 Order. (ECF No. 11). The Order very clearly explained that the Finans could pursue Mrs. Finan’s IFP application merely by submitting Mr. Finan’s financial information. *Id.* The Finan’s declined to do so, seemingly in reliance on Mr. Finan’s own interpretation of the law. Simply put, when presented with three options for moving the case forward, the Finans chose to pay the filing fee.

of time (ECF Nos. 15, 16), which the Court granted on September 14, 2022. (ECF No. 17). At the same time, the Court denied several other motions stemming from Mr. Finan's belief that this Court is trying "to trick" the Finans into paying the filing fee. *Id.*

Discussion

Now before the Court are several additional filings stemming from Mr. Finan's belief that the Court has set a "trap" for him and his wife. (ECF No. 18).

I. Motion for Appointment of Next Friend (ECF No. 8)

As explained above, having determined that it lacked sufficient information regarding the motion to appoint Mr. Finan as next friend, the Court ordered Mr. Finan to supplement the existing motion or file a joint motion with co-guardian Frank Keefe. (ECF No. 14). On September 28, 2022, Mr. Finan submitted an affidavit by Mr. Keefe indicating that Mr. Finan "may act independently on behalf of the guardianship in this pending case." (ECF No. 21-1). Accordingly, the Court will permit Mr. Finan to act as next friend in this matter on behalf of Mrs. Finan. The Court will deny as moot all other motions pertaining to Mr. Finan's appointment as next friend. (ECF No. 22).

II. Motions for Recusal (ECF Nos. 18 and 19)

Mr. Finan asks the undersigned to recuse himself from this matter due to the Court's alleged "prejudicial discriminatory animus" against Mrs. Finan. (ECF No. 18 at 2). Plaintiff, through Mr. Finan, has also filed a complaint with the United States Court of Appeals for the Eighth Circuit alleging such animus. *See* JCP No. 08-22-90080, *Complaint of Margaret Finan*. In light of this complaint, the Court will hold Plaintiff's recusal motion in abeyance pending consideration by the Chief Judge of the Eighth Circuit. *See* Committee on Codes of Conduct, *Disqualification Based on Harassing Claims Against Judge*, Advisory Opinion No. 103 (August 2022) ("[W]hen a litigant files a [Judicial Conduct and Disability Act] complaint against a judge, it is preferable, if feasible,

for the judge to await the initial decision of the chief judge before considering recusal from cases involving that litigant.”).

III. Motions and Other Documents Relating to Submission of a Judicial Complaint (ECF Nos. 18, 19, 23, 24)

Plaintiff, through Mr. Finan, asks this Court to “Cooperate In Submitting [Plaintiff’s allegations] to a US US [sic] District Court-Judicial Conduct/Oversight Group.” (ECF Nos. 18, 19). Since filing this motion, Plaintiff has submitted a complaint against this Court to the United States Court of Appeals for the Eighth Circuit. *See* JCP No. 08-22-90080. For that reason, the Court will deny as moot Plaintiff’s motions relating to the submission of a judicial complaint. (ECF Nos. 18, 19).

IV. Motion to Return the \$402.00 Filing Fee (ECF No. 20)

Mr. Finan asks this Court to refund the filing fee paid by Mrs. Finan in this matter. (ECF No. 20). Mr. Finan boldly purports to give the Court a deadline of September 22, 2022. *Id.* As explained above, the Court gave Plaintiff three options in its June 21, 2022 Order. (ECF No. 11). Of the three options, Plaintiff elected to pay the \$402.00 filing fee. Plaintiff now asks the Court to return the filing fee but fails to cite any authority for doing so. The Court will deny the motion.

Conclusion

For the foregoing reasons, the Court will appoint Mr. Finan to serve as Mrs. Finan’s next friend. The Court will hold Plaintiff’s motion for recusal (ECF Nos. 18 and 19) in abeyance. The Court will deny all other motions.

Accordingly,

IT IS HEREBY ORDERED that Mr. Finan’s “Motion to Proceed as Mrs. Margaret Elizabeth’s Next Friend” (ECF No. 8) is **GRANTED**. All other motions pertaining to Mr. Finan’s appointment as next friend are **DENIED** as moot. (ECF No. 22).

IT IS FURTHER ORDERED that the caption of this case is amended to read as follows: “Margaret E. Finan, by and through her Next Friend Thomas Finan, Plaintiff, v. Access Care General, LLC, et al., Defendants.” The Clerk of the Court shall modify the docket and the short caption to reflect this change, and the parties shall use the amended caption on all future filings.

IT IS FURTHER ORDERED that Plaintiff Margaret Finan’s “Respectful Motion to Judge Ronnie L. White to voluntarily recuse himself from the case” (ECF Nos. 18 and 19) is **HELD IN ABEYANCE** pending the Eighth Circuit’s consideration of Plaintiff’s complaint of judicial misconduct against this Court.

IT IS FURTHER ORDERED that Plaintiff Margaret Finan’s “Respectful Motion to Judge Ronnie L. White to Cooperate In Submitting This Motion Directed to a US US [sic] District Court-Judicial Conduct/Oversight Group” (ECF Nos. 18 and 19) is **DENIED** as moot.

IT IS FINALLY ORDERED that Plaintiff’s “Motion to Mail a \$402.00 US Government Reimbursement Check” (ECF No. 20) is **DENIED**.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 26th day of October, 2022.